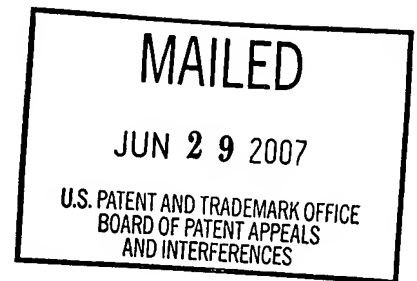


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: Takahiro Unno

Application No. 10/054,604



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 09, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

Summary of Claimed Subject Matter

Appellant filed an Appeal Brief dated May 09, 2006, in response to the Non-Final Rejection mailed February 17, 2006. The Appeal Brief is not in compliance with the new rules of 37 CFR 41.37(c) effective September 13, 2004.

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37 CFR § 41.37(c) states:

(a)(1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

* * *

(c)(1) The brief shall contain the following items...of this section:

(vi) ***Summary of claimed subject matter.*** A concise statement of each ground of rejection presented for review.

An in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief May 09, 2006. The Appeal Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claims argued separately, every means plus functions and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with references to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the examiner to:

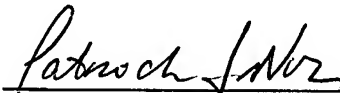
- 1) hold the Appeal Brief of May 09, 2006, defective;
- 2) notify applicants to file a "paper" in compliance with 37 CFR 41.37;

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3) for the Examiner to issue and mail a form PTOL-90 considering and/or
acknowledge the paper; and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



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PJN/jrg

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